

## **ARTICLE 21: SPECIAL PROVISIONS**

### **21.1 Essential Services and Facilities:**

Essential services and the associated facilities necessary for the provision of those services by public utility companies, state and local governments, or other parties, are permitted in any zoning district. However, new service extensions or additions and enlargements may be subject to site plan review by the Planning Commission, to ensure that proposed services are in accordance with the Master Plan, do not unnecessarily create an obstruction to movement and community growth, and do not prove themselves objectionable by reason of hazard, unsightliness, odor, smoke, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste. Site plans shall conform to the requirements of Section 5.12 of this Ordinance.

Buildings and structures associated with essential services must comply with the setbacks established for each zoning district.

### **21.2 Temporary Buildings/Structures, and Uses:**

- A. Temporary buildings or structures incidental to construction work, including mobile homes used for residential purposes, will be permitted in any zoning district until the completion or abandonment of such construction work, or within the period stated in Section 6.4. Such temporary building or structures must comply with the requirements of the Frederick County Health Department.
- B. Circuses, carnivals, special events, roadside stands, and temporary seasonal activities may be permitted in any commercial or industrial zoning district. Roadside stands are permitted in the AG District. Some temporary uses may require site plan review by the Planning Commission, as described in Section 5.12 of this Ordinance.
  - 1. Temporary uses and associated structures will be allowed to remain for no longer than sixty (60) days, at which time the zoning certificate will expire and structures must be removed from the property.
  - 2. If the use is to remain in the same location for more than sixty (60) days, the following additional requirements must be met:
    - a. the applicant must notify the Zoning Administrator or authorized agent of the intent to continue the use prior to the expiration of the zoning certificate, and
    - b. the applicant must prepare a site plan for review by the Planning Commission, as described in Section 5.12. Planning Commission approval of the site plan will include a stated period of time for

which the temporary use will be permitted to remain. A zoning certificate will be issued upon site plan approval.

### **21.3 Modifications:**

In the following cases, requirements of this Ordinance have been modified:

- A. Modifications for the Development of Lots of Record: In any district where dwellings are permitted, a single-family dwelling may be located on any lot of record irrespective of its area or width or the width of the right-of-way on which it fronts, provided that:
  - 1. The front yard(s) shall have a setback of no less than half of the required setback for the district in which the lot is located; and
  - 2. The front yard of a lot of record fronting on a right-of-way of less than fifty feet (50') in width shall be set back twenty-five feet (25') from the center line of the road in addition to the required front yard setback for the district in which the lot is located; and
  - 3. The side yard and/or rear yard shall have a setback of no less than half of the required setback for the district in which the lot is located.
- B. Modification of Front Yard Setback Requirements for the Development of a Lot Between Two Previously Developed Lots: When a building is proposed to be located on an undeveloped lot that lies between two developed lots which do not meet the front yard setback requirement for the district in which they are located, the setback required for the proposed building will be no less than the average of the two front yard setbacks of the adjoining developed lots.
- C. Modification of Height Restrictions: The following buildings and structures are exempted from the height restrictions of this Ordinance: steeples, flag poles, water tanks and towers, essential service facilities and the equipment required to maintain such buildings or structures, communication towers, and farm buildings and structures.
- D. Modification of Setback Requirements for Architectural Features:
  - 1. Front, rear and side yards: The following architectural features may project into the required setback:
    - a. Cornices, canopies, eaves or similar architectural features: not more than six feet (6').

- b. Fire escapes: not more than four feet six inches (4'6").
  - c. Bay windows and chimneys: not more than three feet (3').
- 2. Front or rear yards: The following architectural features may project into the required setback:
  - a. Unenclosed porches, porticos, patios, stoops, terraces, verandas, or balconies: not more than six feet (6').
- 3. Side yard: When adjacent to an interior side lot line, architectural features may project into the required setback not more than three feet (3').

#### **21.4 Satellite Dish Antennas:**

- A. In any Residential or Natural Resource district, ground mounted satellite dishes up to thirteen feet (13') in diameter may be authorized by the Zoning Administrator or authorized agent subject to the following criteria:
  - 1. All installations must comply with all accessory use, height, bulk and setback requirements specified, or as modified, within the district. Front, side, and rear yard setback requirements will include the required setback for the zoning district (as measured from the support post), plus the radius of the dish, cone or horn.
- B. In any Residential or Natural Resource District, roof mounted satellite dish antennas up to three feet, three inches (3'3") in diameter are permitted. Satellite dish antennas with diameters greater than three feet three inches (3'3") may be permitted with Board of Appeals approval subject to the following criteria:
  - 1. Demonstration by the applicant that compliance with Section 21.4 of this Ordinance would result in the obstruction of the antenna's reception window; and that such obstruction involves factors beyond the control of the applicant.
  - 2. The height of the proposed installation does not exceed the zoning district's maximum height restriction.
  - 3. All applications must include certification by a registered engineer that the proposed installation complies with those standards listed in the BOCA Basic Building Code. Furthermore, written documentation of such compliance, including loading distributions within the building's support structure, shall be furnished.

- C. In any Commercial or Industrial Zoning District, roof-mounted satellite dish antennas up to six and a half feet (6'6") in diameter are permitted. Ground mounted satellite dish antennas six and a half feet (6'6") in diameter to thirteen feet (13') feet in diameter may be permitted subject to the following criteria:
1. All principal structure installations or accessory structure installations that abut land zoned for residential purposes shall comply with the principal structure setback requirements of the district in which it is located  
All accessory structure installations not abutting residentially zoned land shall comply with the accessory structure setback requirement as set forth in Section 5.8.
  2. All installations shall comply with the zoning district's maximum height restrictions.
  3. All installations exceeding thirteen feet (13') in diameter shall be screened from any adjoining residentially zoned land. Such screening can be waived if the antenna is set back a distance at least five (5) times its diameter from any residentially zoned property.
  4. All applications for zoning certificates must include certification by a registered engineer that the proposed installation complies with those standards listed in the BOCA Basic Building Code.

## **21.5 Planned Unit Developments (PUDs):**

- A. Intent: The Planned Unit Development is an overlay option only in certain residential zoning districts designed to provide for small and large scale developments incorporating a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and major element of the plan. The purpose of this section is to permit flexibility and provide performance criteria resulting in planned developments, which provide:
1. a maximum choice in the types of environments and living units available to the public;
  2. green areas and recreation areas;
  3. a pattern of development which preserves trees, outstanding natural topography and geologic features and which prevents soil erosion;
  4. a creative approach to the use of land and related physical development;

5. an efficient use of land resulting in smaller networks of utilities and streets;
  6. an environment of stable character in harmony with surrounding development; and
  7. a more desirable environment than would be possible through the strict application of other sections of this Ordinance.
- B. Location: A Planned Unit Development may be established in the RS, R-1, and R-2 Zoning Districts. A zoning certificate/building permit for any structure in a PUD shall be issued only after the Phase III plans for such development have been approved by the Planning Commission and final plats recorded for the lot or section for which the permit is being requested.
- C. Required Land Area: A PUD may not be proposed for any tract of land with an area of less than five (5) acres. The RS and R-1 Zoning Districts require a minimum area of ten (10) acres. A PUD may be owned, leased or controlled either by a single person or corporation or by a group of individuals and/or corporations.
- D. Density: The general density (dwelling units per acre) of a PUD is determined by the Master Plan designation for the property on which the PUD is proposed. The table below establishes density ranges for each of the residential Master Plan Classifications.

<u>Master Plan Classification</u>	<u>Density</u>
Low Density Residential	2-5 DU/acre
Low-Medium Density Residential	6-7 DU/acre
Medium Density	8-10 DU/acre

If the PUD is located within more than a single residential classification, the specific density may reflect a weighted average based upon the percentage of land area in each residential classification.

Specific density for each PUD is determined after the Applicant/Developer has submitted a Statement of Requested Land Use Density to the Planning Commission during Phase I review. If the Phase I plans are approved by the Planning Commission, the plans and a recommended specific density will be forwarded to the Mayor and Council for review.

The Planning Commission in its recommendation and Mayor and Council in its final action on the Phase I PUD plan will consider the following issues in determining the

specific density of a PUD:

1. Existing and planned availability of public services and facilities;
2. Access to existing or planned major thoroughfares and transportation systems;
3. The physical constraints and environmental conditions of the site, including steep slopes or floodplain;
4. The shape of the tract of land;
5. The proposed design of the PUD;
6. Adjoining and nearby zoning and land use and the recommendation of the Master Plan
7. Any other relevant information, which may have a bearing on the development capacity of the PUD.

E. Required Elements: PUDs must provide the following elements (as applicable):

1. Public Facilities: The location, design and extent of public facilities to be provided are subject to the recommendations of the Planning Commission and approval by the Mayor and Council. The following facilities must be provided in PUDs:
  - a. Water and Sewer: All PUDs must be served by a public water and sewer system.
  - b. Transportation: The location and design of roads will be in accordance with the Brunswick Master Plan, the Subdivision Regulations and the Design Manual, or as recommended by the City Engineer.
  - c. Schools: If the PUD contains two hundred fifty (250) or more dwelling units then one acre of land for each hundred (100) dwelling units will be provided for public school sites. However, if it is determined by the Planning Commission upon advice of the Frederick County Board of Education, that a school site is not needed, the owner/applicant may substitute some other public facility (such as fire or police station or library, etc.) in lieu of the school for this site, or land off-site for a public purpose or a fee in lieu of land may be donated for this purpose.

- d. Recreation: Recreational areas shall be provided at a ratio of one (1) acre per sixty (60) dwelling units. (This is not in addition to the required green space.) Funding for operation and maintenance of facilities for the recreational areas shall be collected from individual property owners (including the developer) by the homeowner's association by the time fifty percent (50%) of the units are built, or an equivalent expenditure may be made by the developer to provide the facilities.
  - e. Other Public Facilities: The Planning Commission and Mayor and Council may require developments containing five hundred (500) or more dwelling units to provide at least one (1) acre for a fire station site and at least ten thousand (10,000) square feet for the provision of library services, or a fee in lieu of land, as determined by the Mayor and Council. In addition to the above, the Planning Commission and Mayor and Council may require sites for other public facilities if the need is justified.
  - f. Ownership and Maintenance of Public Facilities: Following acceptance into the City street system, streets will be owned and maintained by the City of Brunswick. Streets and other improved areas approved by the Planning Commission to be private shall be owned and maintained by privately following the City's approval of the improvement construction
2. Green areas: Green areas (ie. open, landscaped or undisturbed vegetated areas) must be provided according to the following table. The calculation of green areas may include recreational areas such as tot lots, ball fields, pools and courts, and at least thirty percent (30%) of all green area (or as otherwise determined by the Planning Commission during Phase II review) must be accessible and usable (on flat land):

<u>Gross Density</u>	<u>Minimum Green Area/ Gross Area</u>
1-5 DU/acre	30%
6-7 DU/acre	35%
8-10 DU/acre	40%

Green areas and recreational areas may be owned and maintained by the City of Brunswick or by a homeowners association, condominium association, or similar organization, subject to the recommendation of the Planning Commission and Mayor and Council approval of areas to be made public.

F. Permitted Land Uses: The following uses, subject to the required lot areas, setbacks, and height requirements as stated in Section 21.5(G), are permitted in a PUD:

1. All residential uses, with the exception of mobile homes, including single-family detached and attached, duplex, townhouses, multi-family dwellings, and zero lot line dwellings. PUDs must feature a combination of at least two (2) different types of residential uses.
2. Commercial uses permitted by right in the B-1 Zoning District, as approved by the Planning Commission, provided that the development contains five hundred (500) or more dwelling units. One (1) acre of land per one hundred (100) dwelling units may be used for commercial purposes. Land proposed for commercial use must be designated on the Phase I and Phase II plans.
3. Limited industrial uses permitted by right in the OR Office/Research and the I-1 Light Industrial District, as approved by the Planning Commission, provided the development contains one thousand (1000) or more dwelling units. Five (5) acres of land per one hundred (100) dwelling units may be used for limited industrial purposes. Land proposed for limited industrial use must be designated on the Phase I and Phase II Plans.
4. Quasi-public uses, as defined in Article 4, shall be permitted subject to Planning Commission approval. Land proposed for quasi-public use must be designated on the Phase I and Phase II plans. Quasi-public uses may also be proposed after Phase II approval, in accordance with the Phase II amendment procedures outlined in Section 21.5(H)4.
5. Accessory uses customarily accessory to or associated with the permitted uses listed above, including private garages, storage spaces, tool sheds or other similar uses.

G. Lot Areas, Setbacks, Height Requirements, and Street Alley Standards:

1. The following minimum setbacks for residential uses (principal buildings) shall be complied with:

Front yard.....	25'
Rear yard.....	25'
Side yards.....	8'

Corner lots, however, shall provide two front yards.

The Planning Commission may consider allowing alternative setbacks to



be used. The developer must present justification for the reduced setbacks during Phase 2 of the Planning Commission's review of the PUD. In such cases, the following setbacks will be considered the absolute minimum:

- a. front yard setback of fifteen feet (15') from the right-of-way, except that garages to be accessed from the front yard area must be set back at least twenty-five feet (25') from the right-of-way;
  - b. one side yard a minimum of eight feet (8'), a total of twelve feet (12') on both sides, and one rear yard setback a minimum of sixteen feet (16') with no building closer than twelve feet (12') to another building. Where a common party wall is used, there shall be a minimum twelve-foot (12') side yard separation between buildings. In the case of zero lot line development, there shall be a minimum twelve-foot (12') separation between buildings on adjacent lots. For buildings exceeding thirty feet (30') in height, one additional foot of separation is required for every two feet (2') of height (excluding chimneys, vents and antennas)<sup>1</sup>.
  - c. Neo-Traditional Designs in accordance with the City Community Design Guidelines & Development Principles in a PUD in excess of 300 acres may be submitted as alternatives to these setbacks requirements with justification from the applicant. The Planning Commission may approve the alternatives after review and concurrence with the justification in relation to the Phase I and Phase II Plans, the Master Plan, and the pattern of relationship to existing development on adjacent or confronting lots and consistency with the purpose and intent and objectives to the PUD option.
2. Accessory buildings/structures may be located anywhere on the lot except in the required front yard setback area, but in all cases they must be located a minimum of three feet (3') from any lot line, or six feet (6') from any building/structure on an adjoining lot. The Planning Commission may approve a modification if the developer presents justification during the Phase III review.
  3. The minimum lot area for quasi-public uses are one (1) acre, with a minimum front setback of forty feet (40') and minimum side and rear setbacks of fifty feet (50').
  4. Minimum lot areas and setbacks for commercial and industrial uses shall

150

<sup>1</sup>Text Amendment BR-TA-01-1 passed 3/13/01

be determined by the Planning Commission during review of the Phase II plans.

5. The Planning Commission may approve modifications to the Design Manual if the developer presents justification during the Phase III Plan review that the design is in accordance with the City Community Design Guidelines & Development Principles.

H. Phased Review: The proposed PUD will be reviewed by the Planning Commission in three (3) phases. The Applicant must receive all necessary approvals by the end of each phase before formally proceeding to the next review phase. The Applicant will bear the cost of the City's engineering or legal review fees. After approval of any phase, any subsequent owner of the PUD shall be bound by the terms of approval of the previously approved phases, or may begin the review process again at Phase

I. The three (3) phases are:

1. Phase I - The Justification Phase: The Applicant will provide the Planning Commission and Mayor and Council with sufficient information to assess the overall concept of the project and to set a maximum permitted land use density for the PUD, if approved. The area of the proposed PUD must be classified as S-5 DEV., W-5 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase I Review.

a. The following documents must be submitted to planning staff with the Phase I application:

- (1) A plan, in a scale of one inch equals four hundred feet (1"= 400'), maximum. The plan shall show twenty (20) foot contours, all natural and man-made features, current zoning, and a vicinity map.
- (2) A schematic overlay, which identifies the location, densities and acreage of all proposed land uses.
- (3) A Statement of Requested Land Use Density and a Statement of Justification for the overall project.
- (4) A statement addressing the issues set forth in Section 21.5(H)1b(1)-(9) below:

b. The Planning Commission and the Mayor and Council, in their respective reviews of the proposed development, will consider all of the following issues to determine whether or not the project

should be approved:

- (1) The relationship of the proposed PUD to the Master Plan, Zoning Ordinance, and other applicable regulations and guidelines;
  - (2) The general location of the site and its relationship to existing land use in the immediate vicinity;
  - (3) The long-term implications on subsequent local development patterns and the demand for public facilities and services in the City and neighboring County;
  - (4) The topography and the relationship of the proposed uses to existing natural and man-made features, both on-site and in the immediate vicinity;
  - (5) The PUD'S proposed construction schedule and how it relates to the provision of public services and facilities;
  - (6) The availability and suitability of vehicular access; and
  - (7) The availability of water and sewer facilities.
- c. The Planning Commission shall review the Phase I proposal at a public hearing advertised in a newspaper of general circulation at least fourteen (14) days prior to the hearing. Owners of property which abuts or confronts the proposed PUD shall receive written notice of the date, time, and location of the public hearing. After considering information presented at the public hearing, the Planning Commission shall formulate a recommendation regarding their approval or disapproval of the proposed PUD and forward it to the Mayor and Council. If approval is recommended, the Planning Commission shall include a recommendation for specific land use density.
- d. The Mayor and Council shall hold a public hearing to determine the feasibility and desirability of the proposed PUD, giving at least fourteen (14) days notice of the hearing in a newspaper of general circulation. Owners of property, which abuts or confronts the proposed PUD shall receive written notice of the date, time, and location of the public hearing. The Mayor and Council shall, at a public hearing, approve or disapprove the PUD and if approved, shall establish a specific land use density.

- e. If Phase II plans are not submitted and approved within one (1) year of the date of the Mayor and Council's approval of the Phase I plans, the Planning Commission shall review the PUD approval and may recommend to the Mayor and Council a continuance for the project or the termination of Phase I approval.

2. Phase II - The Plan Development Phase: The Applicant will submit to the Planning Commission a detailed plan for the entire PUD project in accordance with the approved Phase I plan. The area of the proposed PUD must be classified as S-4 DEV., W-4 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase II Review.

- a. Twenty (20) copies of a survey plat shall be submitted to planning staff, including the following information:
  - (1) A land use plan, identifying the type, location, quantity, design, and density of land use and types of dwellings for specific sections of the project and the overall project;
  - (2) The primary street layout and design;
  - (3) A green space plan, which includes planned sites for quasi-public uses and other public improvements. A time line for the completion of these facilities, which shall be relative to a number of dwelling units completed, shall be included;
  - (4) A detailed engineering plan for the extension of water and sewer facilities, including a time line for the completion of these facilities; and
  - (5) The phasing schedule, showing the sequence of the submission of future plats and the provision of adequate public facilities.
- b. Prior to presenting the Phase II plans at a regularly scheduled Planning Commission meeting, planning staff will distribute copies of the plans to appropriate agency representatives and officials for review and comment, and will coordinate a Technical Advisory Committee (TAC) meeting of those agency representatives, officials, and the Applicant/Developer. Staff will forward information obtained at the TAC meeting to the Planning Commission at the meeting.
- c. In its review, the Planning Commission may request changes or

additional information. The developer will pay any fees for engineering review or off-site studies that may be required by the Planning Commission.

- d. If the preliminary plans of Phase III have not been submitted and approved within three (3) years of the Planning Commission's approval of Phase II plans, the Planning Commission shall review the PUD approval and may recommend to the Mayor and Council a continuance for the project or the termination of PUD approval.

- 3. Phase III - The Execution Phase: The Applicant will submit to the Planning Commission subdivision plats in compliance with the Brunswick Subdivision Regulations, and in accordance with approved Phase I and Phase II plans. The area of the proposed PUD must be classified as S-4 DEV., W-4 DEV., at minimum, on the County's Water and Sewerage Plan to be eligible for Phase III Review. However, the project shall not proceed to final plat or building permits without S-3 DEV., W-3 DEV. The following documents shall be submitted:

- a. Preliminary plans in compliance with the requirements of the Brunswick Subdivision Regulations.
- b. Nine (9) copies of covenants to be attached to the property, as well as nine (9) copies of the articles of incorporation and by-laws of any homeowners association. The Applicant/Developer will bear the cost of legal review by the City Attorney.
- c. Final plats in compliance with the requirements of the Brunswick Subdivision Regulations. However, with the exception of those for single-family detached dwellings, final plats will not be approved before exterior architectural and landscaping plans have been reviewed and approved by the Planning Commission.

- 4. Amendments to Phase II Plans: Applicants may request an amendment to the Phase II plans to establish a quasi-public use.

- a. In evaluating a quasi-public use request, the Planning Commission will consider the relationship of the proposed use to the existing and future development patterns in the PUD. A quasi-public use may be permitted if the Planning Commission finds that:
  - (1) The proposed use is associated with the needs of the PUD and is in harmony with the purpose and intent of the approved PUD plans and of this Section;

- (2) The nature and intensity of the operations involved, or conducted in connection with the proposed use, and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the PUD in which it is located;
  - (3) Operations in connection with the proposed use are no more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics than would be the operations of any permitted use;
  - (4) Parking areas are in compliance with the off-street parking requirements of this Ordinance and will be screened from adjoining residential uses. The entrance and exit drives shall be laid out so as to achieve maximum safety;
  - (5) The road system providing access to the site is adequate to serve the proposed use;
  - (6) The site meets the minimum lot area requirement; and
  - (7) The minimum front, side and rear setbacks are met.
  - (8) In addition to the requirements stated above, the Planning Commission may impose reasonable conditions as necessary to protect adjacent properties and the integrity of the PUD.
- b. The Planning Commission shall not consider an amendment to the Phase II plans to establish a quasi-public use unless and until:
- (1) A written request to amend the Phase II plan has been submitted, indicating the grounds on which the approval of the quasi-public use is requested and a site plan for the proposed use;
  - (2) A notice of public hearing has been posted on the property for a minimum of thirty (30) days prior to the next regularly scheduled Planning Commission meeting, indicating that an amendment to the Phase II plan has been proposed;
  - (3) A public hearing has been held and the Planning Commission finds that the use requested meets the requirements outlined in this section; and,

- (4) Upon approval of the quasi-public use, the Phase II plan will be revised to reflect the change.
- (5) Any use or activity permitted as a quasi-public use in a PUD may not be enlarged or extended beyond the limits authorized in the approved site plan and amended Phase II plan. Any enlargements, extensions, or changes in use shall require an approved site plan amendment and amendments to the Phase II plans.

(Ord. 422)

## **21.6 Planned Industrial/Commercial Development:**

### **A. Purpose and intent.**

- 1. Encourage concentration of complementary uses grouped adjacent to major thoroughfares, thus limiting sprawling strip commercial and industrial development.
- 2. Provide for well-planned development on sites with adequate frontage and depth to permit controlled access and maximum convenience and efficiency for users of such facilities.
- 3. Allow for overlapping permitted uses and their accessory functions on parcels which are divided into 2 or more commercial or industrial zoning districts, where due to the size and location of the development, and its relationship to the surrounding properties, flexibility of planning may be desirable without disturbance to the harmony of the neighborhood. Accessory functions may include parking, storm water management, streets and utilities servicing the overlapping permitted uses.

### **B. Site plan/subdivision.**

- 1. The Planning Commission shall make the final determination as to whether a planned commercial/industrial development shall be approved. A site plan and subdivision plat must be submitted and approved by the Planning Commission.
- 2. When overlapping uses are requested, Sketch/Concept Plan approval is required. The final site plan and subdivision plat must be submitted within 1 year after such Sketch/Concept Plan approval, at which time the Planning Commission shall make a determination as to whether a planned commercial/industrial development shall be permitted.

3. In making a determination as to whether the development shall receive approval, the Planning Commission shall consider the intent and purpose of this section as well as the following design standards, which shall serve as guidelines in reviewing the plan and setting conditions to be placed upon the development. The following design standards may be modified as necessary by the Planning Commission in order to achieve the purpose and intent of this section. Subdivision plats shall comply with subdivision regulations and conditions of site plan approval.

C. Design standards.

1. Layout. In general, the plan shall provide a unified and organized arrangement of buildings, service areas, parking and landscaped open space providing for maximum comfort and convenience of customers. Buildings shall be so grouped in relation to parking areas that, after customers arriving by automobile enter the site, establishments can be visited with a minimum of internal automobile movement.
2. Use. All proposed uses shall be identified on the submitted site plan. The uses proposed within the planned commercial/industrial development shall be in accordance with the existing, underlying zoning; however, the development may include 1 subdivided lot which provides for any use permitted within any zoning district in which any part of the lot is proposed, subject to the limitations set forth below and provided such uses may be limited or restricted in accordance with the approved development plan. More than 1 principal use and/or building may be approved on the site.
3. Bulk regulations.
  - a. Project area. Minimum of 2 acres. The land area of any lot with proposed uses not permitted by the underlying zone shall not exceed one times the land area within such proposed lot which is compatible with such zone. The Planning Commission may not permit accessory functions on land in excess of the land specified in this subsection 21.6(C)(3)(a).
  - b. Minimum frontage of 200 feet on a collector or higher classification highway as shown on the Master Plan or the County Comprehensive Plan.
  - c. Minimum front and rear yard setback shall be not less than 40 feet or equal to the height of the building, whichever is greater.



- d. Minimum side yard setback shall be not less than 15 feet unless adjacent to a Residential District, then the setback shall be not less than 100 feet.
- 4. Building separation. Unless buildings are built to a common party wall, they shall be separated by a minimum distance of not less than 10 feet, or a distance equal to the height of the building, whichever is greater.
- 5. Minimum off-street parking requirements. Off-street parking shall be provided in accordance with the zoning requirements for each proposed use and may be modified by the Planning Commission based upon layout, design and usage.
- 6. Minimum landscaped open space.
  - a. Minimum landscaped open space on any individual lot shall not be less than 20% of the land area of the lot.
  - b. Such open space shall not be impervious or open to vehicles and shall be landscaped and maintained.
- D. Sketch/Concept Plan approval required for overlapping of Permitted Uses.
  - 1. The provisions of this section relating to the overlapping of permitted uses shall be limited to parcels of record with split zoning as of March 8, 2005, or as created by subsequent comprehensive rezonings. Split zoning parcels are defined as those divided into 2 or more of the following zoning classifications: General Commercial, Light Industrial, or Office Research (GC, I-1, or OR).
  - 2. An applicant may request overlapping of permitted uses on a portion of the planned commercial/industrial parcel not presently zoned for such use, by requesting sketch/concept plan approval through the submission of the following to the Zoning Administrator at least 60 days prior to the plan being presented to the Planning Commission:
    - a. An application in a form acceptable to the Planning and Zoning Office;
    - b. A sketch plan at 1 inch equals 100 feet or a greater scale, showing 2 foot contours, all existing natural and man-made features, existing zoning, Master Plan designation and vicinity map;

- c. A sketch/concept development plan identifying the location and acreage of all proposed land uses and a generalized location of buildings, roadway, parking and other facilities necessary for development of the site; and
  - d. A justification statement setting forth:
    - (1) The relationship of the proposed development with the Master Plan and zoning regulations;
    - (2) The long-term implications which the proposed planned commercial/industrial development will have on local development patterns;
    - (3) Location of site and its compatibility with existing and planned land use in immediate vicinity;
    - (4) The specific proposed uses and the underlying zoning where such uses are proposed;
    - (5) Proposed construction phasing schedule in relationship with the available public facilities and services;
    - (6) Availability and suitability of existing and proposed vehicular access; and
    - (7) Whether the project as proposed encourages concentration of complementary uses and/or promotes the limitation of sprawling strip commercial development.
- 3. The Planning Commission will consider the feasibility and desirability of the project application in light of the justification criteria set forth in subsection (C) above and shall approve or disapprove the sketch/Concept Plan.
- E. Covenants. Agreements to provide for the use and maintenance of all common use areas shall be reviewed and approved by the Planning Commission and the City Attorney at the developer's expense and recorded by the developer if subdivision occurs.
- F. Subdivision. A site receiving site plan approval may only be subdivided in full compliance with City of Brunswick subdivision regulations. A lot receiving approval for overlapping permitted uses may only be further subdivided at the discretion of the Planning Commission and only when consistent with the purpose

and intent of this section, and no such lot shall further utilize those provisions of this section relating to the overlapping of permitted uses.

- G. Approval note. All plans/plats shall contain a note stating, “This plan/plat is being reviewed and approved under the Planned Industrial/ Commercial Development provisions of the Zoning Ordinance”.

(Ord. 422)

## **21.7 Mixed-Use Development (MXD) Option:**

- A. Purpose and objectives of the Mixed-Use Development.
  - 1. The Mixed-Use Development (MXD) is an overlay development option only in certain zoning districts which is established for the purpose of providing a compatible mixture of commercial, employment, residential, recreational, civic and/or cultural uses which are planned and developed as a unit. The location of an MXD is restricted to areas which are designated General Commercial, Office Research, or Light Industrial on the City of Brunswick Master Plan and Zoned General Commercial, Light Industrial, Office Research, or Open Space, and which meet the location and size requirements set forth in this section. An MXD can be established on undeveloped land or as part of an existing project. PROJECT is herein defined as a development having an approved preliminary plan. An MXD should act as a complement to, and become a focal point for, the surrounding areas.
  - 2. The objectives for this district include:
    - a. Allowing for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of the land. These introduced uses should provide for heterogeneity and convenience while creating a sense of community.
    - b. Creating an environment that ensures the integration and compatibility of the project with existing and proposed surrounding developments while acting as a focal point for the area.
    - c. Creating open spaces, civic buildings and/or architectural treatments that act as landmarks, symbols and activity centers that provide a strong sense of identity and uniqueness.
    - d. Fostering a pedestrian-friendly environment by the development of a comprehensive non-vehicular circulation network which would link

residential, commercial, and employment areas as well as open spaces, public facilities and recreation areas.

- e. Allowing for development and design flexibility.
- f. Preserving and integrating into the project existing structures or features on the site which are, or are eligible, to be placed on the National Register of Historic Places or other recognized historic site inventory.
- g. Accommodating mass transit services, as that term is described in Volume I of the Frederick County Comprehensive Plan, which exist or are planned in the vicinity of the MXD site.

(Ord. 457)

B. Location.

- 1. This Mixed-Use Development (MXD) option shall be located only in areas designated Low Density, Medium Density, and High Density Residential, General Commercial, Office/Research, or Light Industrial on the City of Brunswick Master Plan and zoned Low Density, Medium Density, and High Density Residential, GC, OS, OR, and/or I-1, which have a classification of at least W-4, S-4 on the Water and Sewerage Plan, and which are consistent with the “Community Concept” of development as described in the City of Brunswick Master Plan.
- 2. The tracts of land eligible for the MXD option shall be located adjacent to existing or planned arterial roads that are or will be adequate to service the proposed development.
- 3. The feasibility of a site for the MXD option would be governed by the ability to satisfy the MXD purpose, objectives and standards as determined by the Planning Commission.
- 4. The MXD’s character and size would be established based on its compatibility with the existing uses in the neighborhood and with the proposed uses for the neighborhood as shown on the City of Brunswick Master Plan.

(Ord. 457)

C. Size requirements.

1. Tracts of land will be 40 acres or greater to be eligible for the MXD option.
2. Tracts of land eligible for the MXD option will be 1 or more contiguous tracts of land under the ownership or control of a single developer or owner or 2 or more contiguous tracts of land owned by 2 or more owners if they have filed for the MXD option under a joint application.
3. All setback, buffer area and right-of-way requirements for the different land uses within the MXD shall be determined by the Planning Commission with consideration given to applicable standards for similar uses in existing zoning districts. Flexibility in the application of these setback, buffer and right-of-way requirements may be allowed by the Planning Commission to achieve excellence of design, an appropriate mix of the elements of the MXD, the efficient use of land and the provision of suitable amenities for the MXD neighborhood. There will be no minimum lot areas or lot widths required within the MXD.
4. Setbacks and height limitations for all structures proposed to be over 40 feet high in General Commercial or 60 feet high in other districts shall be determined by the Planning Commission at the time of site plan approval and in accordance with requirements of the underlying zoning district.

(Ord. 457)

- D. Permitted land uses. Land uses permitted using the MXD Option are limited to only the following uses.
1. Residential. Medium-density and high-density residential uses including townhouses, multiplexes, condominiums, apartments and elderly housing.
  2. Commercial. All uses permitted in the General Commercial District of the zoning ordinance with the exception of auction house; lumber yard; mobile home sales; boat sales and service; farm equipment sales and service; carpentry, electric, plumbing, welding, printing and upholstering establishments; contractors, fencing, pool and siding; agricultural products processing; bottling plant; stone monument processing and sales; bus depot; recycling centers; animal auction sales; racetrack; and solid waste transfer stations.
  3. Recreational. Passive and active recreational activities such as golf driving range, health club, tennis club, sports field, swimming pool, skating rink, indoor or outdoor theatre, jogging paths, parks and similar uses.

4. Employment.

- a. If the site is designated and zoned Office/Research on the City of Brunswick Master Plan and Zoning Map, then office business, office professional, laboratory research (experimental or testing), limited manufacturing, assembly uses, and banks or savings and loans.
- b. If the site is designated and zoned Light Industrial on the City of Brunswick Master Plan and Zoning Map, then office business, office professional, laboratory research (experimental or testing), wholesaling and warehouse, limited manufacturing and assembly uses.

5. Civic/institutional and cultural. Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheaters, bandstands, museums, and similar facilities and uses.

E. Land use mix determination.

- 1. The amount and intensity of each land use permitted within an MXD shall be determined by the following criteria.
  - a. The relationship of the site to the City of Brunswick Master Plan.
  - b. The gross acreage of the site of land on which, or the project into which, the MXD is established.
  - c. Availability of existing and planned public services.
  - d. Access to existing or planned major thoroughfares and transportation systems.
  - e. Ability to serve the specific needs of the total site or project and the surrounding service area.
  - f. Physical characteristics of the site.
  - g. The amount of dedicated open space.
  - h. Compatibility with surrounding uses and the ability to provide for transition between different uses.
  - i. External and internal relationships which allow for compatibility and transitioning between uses.

j. Efficient use of the land.

2. The residential component of the MXD, as defined in subsection (D)(1) herein, cannot exceed 25% of the gross project acreage exclusive of floodplain areas. The commercial component of the MXD, as defined in subsection (D)(2) herein, cannot exceed 25% of the gross project acreage, except if the MXD has no residential component, then the City of Brunswick in its sole discretion may approve a commercial component which cannot exceed 45% of the gross project acreage, exclusive of floodplain areas. For an MXD with a residential component, the combined residential and commercial portions of the MXD cannot exceed 40% of the gross project acreage or 50% of the gross project acreage exclusive of floodplain areas, whichever is lesser. The City of Brunswick shall have the authority to deny or reduce the size of the residential or commercial component if determined that it is inappropriate for the site or overall area of the MXD. The remainder of the site shall be used for employment uses, civic/institutional and cultural uses, and open space. For MXDs with mixed-use buildings, building square footages for each use will be used to determine the land use percentages. The Planning Commission shall have the right to require the phasing and order of the types of land uses.
3. The total amount of dedicated open space within the MXD shall be no less than 30% of the total area shown for residential development and 20% of the total area devoted to commercial and employment/industrial uses. Existing floodplain areas may be used as part of this open space requirement. Public and noncommercial recreational, cultural and civic activities and facilities may be established in the required open space area(s).
4. Vertical and horizontal integration of uses is encouraged.

F. General requirements.

1. In order to achieve design excellence, sound planning and the achievement of the MXD objectives, the applicant may propose design criteria and/or dimension requirements that are not in complete conformance with existing zoning and subdivision regulations for the various land uses and zones. These modifications may be granted by the Planning Commission upon justification by the applicant.
2. The location, design and extent of public facilities shall comply with the following requirements.
  - a. Water and sewer. All MXDs shall be served by public water and sewer.

- b. Transportation. The location, hierarchy and design of roads will be in accordance with the City of Brunswick Master Plan, the City's subdivision regulations, and the Design Manual. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications.
- c. Recreation/civic/cultural and public facilities. The provision for these facilities is encouraged as they act as a catalyst in fulfilling the objectives of the MXD, such as creating a place, achieving a strong sense of identity, and creating activity centers. The selection, mixture, and location of these facilities shall be compatible with the proposed uses and the overall objectives of the MXD, as determined by the Planning Commission.
- d. Ownership and maintenance of public facilities.
  - (1) All water and sewer facilities will be owned by the City of Brunswick.
  - (2) Streets will be owned and maintained by the City of Brunswick if consistent with City policy. Streets or parking areas not dedicated to and accepted by the Mayor and Council shall be maintained by a property owners association, condominium association or similar organization.
  - (3) Open space, stormwater management facilities and recreation areas will be owned and maintained by the City of Brunswick if consistent with City policy. Those not dedicated to and accepted by the Mayor and Council shall be maintained by a property owners association, condominium association, or similar organization. The covenants establishing the same shall be subject to the approval of the Planning Commission or other appropriate City authority. To the extent it is in the best interest of the City, the Mayor and Council will have the option of accepting dedication of some or all of such facilities.
- G. Phasing. Construction of the MXD project should be phased to fulfill the overall objectives of this district as set forth in subsection (A)(2) above. Some permitted employment uses must exist on the MXD project prior to, or be developed on the MXD project simultaneously with, the establishment of other uses allowed under this option. Phasing should be designed to fulfill on-site and off-site needs, to complement the provision of services, and to fulfill the purpose and objectives of the District.



H. Review and approval of MXD Overlay Option.

1. Phase I: Concept Plan. The developer will provide sufficient information for the Planning Commission to approve and recommend to the Mayor and Council to approve or disapprove the development option on the property and the overall concept of the project and to establish the land use mix of the project.
  - a. The MXD option may be approved if it satisfies the objectives and requirements set forth in subsections (A) through (G) of this section. The applicant has the burden of proof on all issues.
  - b. Application. The application submitted must include the appropriate number of copies of each of the following:
    - (1) A map of the applicant's entire holding at a convenient scale;
    - (2) A vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property.
    - (3) A topographic map of the property, at a minimum of 2-foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.
    - (4) A generalized overall land use plan at 1" = 100' scale, showing the type, location, acreage and density of all proposed land uses as well as the general street layout and circulation pattern.
    - (5) A Concept Plan at 1" = 50' scale showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational, or cultural facilities and areas.
    - (6) A phasing schedule describing the timing and sequence of development and public facilities.
    - (7) A justification statement addressing the following:

- (a) Relationship to Master Plan, zoning ordinance, and other development regulations;
  - (b) Integration and relationship of uses within the project and with existing uses in the neighborhood of the project;
  - (c) Long-term implications on local development patterns, facilities and services;
  - (d) Topography and relationship to on-site and off-site natural and man-made features;
  - (e) The timing of the construction of the MXD project as it relates to the provision of facilities and services;
  - (f) Availability and suitability of pedestrian and vehicular access to transportation systems;
  - (g) Water and sewer facilities and capacity availability, and any proposal to supply them;
  - (h) Preservation and integration into the project of any existing historic structures on the MXD site.
- (8) The Planning Commission or Mayor and Council may require that architectural renderings of buildings, streetscapes or public areas be presented to assure that the appearance, size and type of building material or other aspects of the design are in keeping with the purposes and intent of the MXD. The Mayor and Council may add conditions to its approval of the MXD requiring architectural review.
- c. No less than 60 days after submission, the Planning Commission shall review the Phase I proposal at a public hearing. The Planning Commission shall then make a recommendation to the Mayor and Council as to approval or disapproval of the MXD application. A recommendation for approval will be accompanied by a recommendation for land use mix percentages for the project.
- d. Upon receipt of the Planning Commission recommendation, the Mayor and Council shall hold a public hearing on the proposal. The Mayor and Council shall then determine the feasibility and desirability of the project concept and shall approve or disapprove the

MXD option, and if approved, set maximum permitted land use mix percentages.

- e. If the execution phase, as provided in subsection (2) below, has not commenced within 3 years of approval of the Concept Plan, the Planning Commission shall review the Concept Plan to determine if the MXD is still an appropriate use for the property. The Planning Commission may then grant an extension of the approval or recommend that the MXD be reviewed by the Mayor and Council for possible removal of the MXD option. The Mayor and Council shall have the authority to remove the overlay option.

- 2. Phase II: Execution Phase. This guides the project through the customary subdivision and site plan process. Before applying for execution phase, the MXD site shall be classified at least W-4, S-4 on the Frederick County Water and Sewerage Plan.

- a. Preliminary and final platting in accordance with the City subdivision regulations is required in addition to submission of 5 copies of any covenants to be attached to the property and 5 copies of any homeowners' association charter.
- b. Site plan review shall be in accordance with the zoning ordinance.
- c. Adequate Public Facilities Ordinance (APFO) review will occur as part of the normal subdivision and/or site plan approval process.
- d. As part of the execution phase, the Planning Commission may approve changes to the location of land uses on the Concept Plan, provided that the amount or percentage mix of commercial and/or residential development on the site does not increase from Phase I Concept Plan approval. Any increase in the amount or percentage mix of commercial and/or residential development must be approved by the Mayor and Council. Any change in the plan which would replace a mixed use area with an area containing only residential uses would also be subject to Mayor and Council approval.

#### I. Appeals.

- 1. Any person aggrieved by a final decision of the Planning Commission on the MXD Plans or the Mayor and Council on the MXD Option (Phase I Plan) pursuant to this section may appeal to the Circuit Court pursuant to Maryland Rules, Subtitle B. The decision of the Circuit Court of Frederick County may

be appealed to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules.

2. The Mayor and Council may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the County, to the Court of Special Appeals of Maryland or, upon certiorari, to the Court of Appeals of Maryland of any decision made under this section.

(Ord. 422)

## **21.8 Cluster Development:**

### **A. Purpose**

The purpose of cluster development is to provide an optional method of development in appropriate circumstances as determined by the Planning Commission that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainage ways, or preserves features of outstanding natural topography; in order to prevent soil erosion and provide green areas for rest and recreation.

### **B. Scope**

The provisions of this division shall apply only to cluster developments.

### **C. Districts Where Permitted.**

In all R Districts, the Planning Commission in approving subdivision plats may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided.

### **D. Density Determination and Design Requirements.**

The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, DENSITY means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after annual floodplain areas and rights-of-way for principal highways have been deducted from the gross site area.

### **E. Green Area Space Requirement.**

Reduction of individual lot areas will be reserved as green area.

F. Procedure.

The procedure to obtain approval of plats under residential cluster development is as follows.

1. A Concept Plan is to be submitted to the Planning Commission at least 60 days prior to the Commission meeting at which it is to be considered which shows:
  - a. The type of dwelling unit (single-family, townhouse, garden apartment, etc.), building restriction lines, and underlying zoning; and
  - b. Street layout; and
  - c. Green area system; and
  - d. Vicinity map (Scale: no smaller than 1 inch equals 2,000 feet); and
  - e. Topography with minimum 5 foot contours (USGS topographic maps are permitted for the concept plan); and
  - f. Number of acres in the entire tract; and
  - g. Overall dwelling unit density.
2. If the concept plan is approved by the Planning Commission, the developer will then proceed with platting of the development in accordance with the Subdivision Regulations. Final plats filed on cluster development shall bear a statement indicating that the land lies within an approved residential cluster development.
3. In addition, the development is subject to the following conditions.
  - a. The development of land within the cluster is permitted only in accordance with the approved final plat.
  - b. The agreements concerning the ownership and maintenance of open space land must be approved by the Planning Commission and will be recorded simultaneously with the final plat.

- G. Approval note. All plans/plats shall contain a note stating, “This plan/plat is being reviewed and approved under the Cluster Development provisions of the Zoning Ordinance”.

(Ord. 422)

#### **21.9: Townhouse Development:**

- A. Scope.

The provisions of this division shall apply to townhouse developments.

- B. Density.

The overall density shall not exceed the maximum density permitted within the zoning district in which the development is located. When recorded as individual lots, each townhouse lot shall have a minimum of 1,800 square feet. Forty percent of the difference in lot size and net land area per townhouse shall be allocated to green area.

- C. Lot Width.

The minimum lot width is 18 feet.

- D. Row Lengths.

There shall be no more than 8 and no less than 3 townhouses in a row.

- E. Yards.

1. Each townhouse shall have a front yard of 25 feet. The Planning Commission may allow enclosure of front yard space in the townhouse development if the design provides for this feature. Townhouses may be arranged to face onto a common open area, such a common area shall be provided for unobstructed access of emergency vehicles. With such an arrangement, the front yard requirement may be reduced to 10 feet.
2. A side yard at least 10 feet in width shall be provided at each end of every row of townhouses. When an end unit abuts a street, the side yard shall have a minimum of 25 feet.
3. Each townhouse shall have a rear yard at least 30 feet in depth.

4. An accessory building may be located in a rear yard and shall occupy not over 25% of the rear yard area and shall be set back at least 5 feet from any alley or rear service street line.

F. Access Drives and Off-Street Parking.

Pedestrian and vehicular access shall be improved to standards specified by the Design Manual. Off-street parking facilities shall be provided in accordance with the Design Manual and Article 23 of this Ordinance. No parking area shall be more than 200 feet from the townhouse lot it is to serve. Access drives and streets shall be private unless otherwise approved by the Planning Commission.

G. Maintenance of Common Land and Facilities.

If the townhouse development provides for common area, property, or facilities, they shall be conveyed to an incorporated nonprofit home association created under recorded land agreements, as approved by the Planning Commission, through which each lot owner is automatically a member and through which each lot is automatically subject to a charge for a proportionate share of common property maintenance.

- H. Approval note. All plans/plats shall contain a note stating, "This plan/plat is being reviewed and approved under the Townhouse Development provisions of the Zoning Ordinance".

(Ord. 422)

### **21.10 Shopping Centers/Retail Centers:**

The following will apply to shopping centers/retail centers.

- A. Parking for a shopping center may be reduced by 10% over the figure arrived at by totaling the requirements of each individual use on the property or may be figured at 5.5 parking spaces per 1,000 square feet of gross leasable floor area. One of the 2 methods may be used at the option of the developer subject to Planning Commission approval. Parking and loading areas may project to within one-half the required setback distance.
- B. The subdivision of any lot off of a tract of land approved as a shopping center development will be governed by the following.
  1. The newly created lot will have vehicular access by the same method as the shopping center unless another access point is allowed by the Planning

Commission and the new access point will meet the conditions of the Design Manual and Sight Distance Policy as they pertain to access.

2. The newly created lot will be allowed to use the same sign size formula permitted for shopping centers, but will not be permitted to have a freestanding or pylon-type sign.

C. Bulk regulations.

1. Minimum lot size of 2 acres.
2. Minimum frontage of 80 feet, with access on a public road with a minimum pavement width of 10 feet.
3. Minimum front yard setback of 50 feet.
4. Minimum side and rear yard setback of 30 feet unless adjacent to a residential district or use, then the setback shall be not less than 100 feet.
5. Maximum height of structures shall not exceed 60 feet.

D. Minimum landscaped open space.

1. Minimum landscaped open space shall not be less than 20% of the land area of the lot.
2. Such open space shall not be open to vehicles.
3. All open space must be landscaped and maintained.

E. Approval note. All plans/plats shall contain a note stating, "This plan/plat is being reviewed and approved under the Shopping Centers/Retail Centers provisions of the Zoning Ordinance".

(Ord. 422)

**21.11 Transit Oriented Development (TOD):**

A. Purpose and objectives of the Transit Oriented Development overlay option.

1. The Transit Oriented Development (TOD) is an overlay option only in the B-1 Neighborhood Business, B-2 Central Business, B-3 Business Transitional, and GC General Commercial zoning districts, which is designed to provide



for the development and redevelopment of available parcels of land located within ¼ mile from the Brunswick train station. The goal of the TOD overlay option is to create compact development which encourages pedestrian access to the train station. The TOD overlay option should provide for a compatible mixture of office, general business/retail, and medium to high density residential uses oriented in such a way that it is defined by the transit facility, in terms of parking, density, and building orientation.

2. An appropriate mixture of uses can be realized under the TOD overlay option through the development and redevelopment of more than one (1) parcel within the overlay area which may not be present in any one (1) development proposal. During the Phase I approval process, the Mayor and Council of Brunswick shall have the discretion to determine whether the most efficient and appropriate development for a particular parcel can be achieved under the TOD overlay option and whether the proposed development contributes toward the achievement of the goals and objectives of the overlay option. A mixture of uses is not required if it is determined by the Mayor and Council at the Phase I stage that the most efficient and appropriate development for a particular parcel is achieved by the development of only one (1) type of use (i.e., commercial, office, or residential). The emphasis of the TOD overlay option will be on medium–high density residential development, with supporting or other office/commercial uses, to take advantage of the proximity to the train station and to reduce dependence on street traffic. The minimum density of any proposed development or redevelopment under the TOD overlay option must be consistent with smart growth guidelines of 3.5 dwelling units per acre. Any proposed development or redevelopment must also include: an integration of local transit service; and public pedestrian thoroughways to and from the train station.
3. Objectives for the TOD overlay option include:
  - a. Allowing for the construction of medium-high density residential development in close proximity to the train station and to encourage pedestrian access from living quarters to the train station for purposes of commuting, thereby reducing reliance on street and other motor vehicular commuting, and achieving resulting benefits to street congestion and the environment.
  - b. Promote active, well-defined places near the train station, so as to create amenities for existing transit riders and provide ancillary or support commercial/office uses to complement the residential development, and to further provide larger destination office/commercial uses in proximity to the train station, where deemed appropriate.

- c. Generate new ridership by maximizing residential density and use of vertical multifamily construction in areas located in close proximity to the train station, with particular preference given to those locations that are also located in reasonable proximity to commercial/retail centers.
- d. Allowing flexibility for development and design, including increasing building heights and allowing flexibility, as determined by the planning commission, on building setbacks, other design guidelines, design manual, and other development requirements and guidelines.
- e. Leverage of the public investments in transit to achieve community goals.

B. Location.

- 1. The TOD overlay option area shall be permitted only on parcels located within ¼ mile from the Brunswick train station. For the purposes of this section, a parcel shall be deemed to be located within ¼ mile from the Brunswick train station if more than 50% of the entirety of any parcel is located within such distance, as shown on Brunswick Central Business District – TOD Overlay Option Map. Any new lots subdivided from a parcel which meet the requirements of this subsection shall also be deemed to meet the proximity requirements set forth herein.

C. Size requirement.

- 1. There shall be no minimum parcel size for a proposed TOD overlay option area.
- 2. Tracts of land eligible for the TOD overlay option will be 1 or more contiguous tracts of land under the ownership or control of a single developer or owner, or two (2) or more contiguous tracts of land owned by two (2) or more owners if such owners have filed for the TOD overlay option under a joint application.
- 3. All setbacks, buffer areas and rights-of-way requirements for the different land uses within the TOD overlay option shall be determined by the Planning Commission, but shall be compatible with applicable standards for similar uses in existing zoning districts.
- 4. Building heights within the TOD overlay option shall be permitted up to 4 stories of leaseable/livable space. The Planning Commission in its discretion may permit taller multi-use structures during the Phase II approval based

upon its finding that such taller structures are not inconsistent with the surrounding area.

D. Permitted land uses. The following uses are permitted by right within a TOD overlay option.

1. Residential. All residential housing types are permitted, but emphasis will be placed on vertical density and efficient use of land and existing structures.
2. Commercial uses. All uses in the B-1, B-2, B-3 and GC zoning districts are permitted, provided that the following uses are not permitted: auction house; lumber yard; mobile home sales; boat sales and service; farm equipment sales and service; carpentry, electric, plumbing, and welding establishments; contractors, fencing, pool, and siding; agriculture products and processing; bottle plant; stone monument processing and sales; recycling center; animal auction sales; racetrack; and solid waste transfer stations. Multi-use buildings, such as high-rise apartment/condominium buildings with retail/service establishment on the lower floor and professional office on the second or higher floors are encouraged.
3. General. Professional, service and other office uses.
4. Civic/institution and cultural. Libraries, meeting halls, fire and rescue stations, post offices, government buildings, civic parks, memorials, amphitheaters, bandstand, museums, and similar facilities and uses.

E. Land use mixed determination.

1. There shall be no required proportionate mix of permitted land use within a development utilizing the TOD overlay option unless the Mayor and Council so determines during the Phase I approval process. A development under the TOD overlay option may be approved with any or all of the permitted land uses described above but multiple land uses are not required unless the area in which development is proposed lacks appropriate existing or planned uses to support the proposed TOD overlay option development as determined by the Mayor and Council. In any situation, preference shall be given to medium-high residential use with support commercial/office use.
2. Open space dedication or preservation shall be limited within the TOD overlay option development to reflect the overriding objectives of the TOD overlay option. Appropriate recreational (passive and/or active) facilities shall be provided within the structures as determined by the Planning Commission with consideration given to the uses proposed.

3. Vertical and horizontal integration of uses is encouraged, with preference given to vertical integration.
4. Civic/institutional and cultural uses shall not be permitted in stand-alone buildings unless it is determined by the Planning Commission at the Phase II stage that the most efficient and appropriate development for a particular parcel is achieved by permitting a specific civic/institutional and cultural use in a stand-alone building.

F. General requirements.

1. In order to achieve design excellence, sound planning and the achievement of the goals and objectives of the TOD overlay option, the applicant may propose design criteria and/or dimensional requirements that are not in complete conformance with the existing zoning and subdivision regulations for the various land uses and zones, and the City of Brunswick Design Manual. The Planning Commission may grant these modifications, if the developer presents justification during Phase II that the design is in accordance with the City Community Design Guidelines & Development Principles and the intent of the TOD overlay option.
  - a. Water and sewer. All TOD overlay option developments shall be served by public water and sewer.
  - b. Transportation. The location, hierarchy, and design of streets will be in accordance with the Master Plan, the City Subdivision Regulations, and City Design Manual. However, flexibility in the application of these regulations will be permitted insofar as those ordinances allow for modifications, and the Planning Commission shall be permitted to grant further modifications for the purpose of achieving the stated objectives of the TOD overlay option, particularly with an emphasis on pedestrian movements and the de-emphasis on vehicular access and street commuting. Development plans should emphasize pedestrian and bicycle movements designed and located to encourage use of the train station. To the extent reasonable and practicable the pedestrian and bicycle movements should provide for interconnectivity to existing and future development where appropriate and shall connect where such connections are currently available.
  - c. Ownership and maintenance of public facilities.
    1. All water and sewer facilities will be owned by the City.

2. Streets will be owned and maintained by the City if consistent with City policy. Streets or parking areas not dedicated to and accepted by the Mayor and Council shall be maintained by a property owners' association, condominium association, or similar organization, or by the developer.
  3. Open space, stormwater management facilities and recreation areas may be owned and maintained by the city if consistent with city policy. Those not dedicated to and accepted by the mayor and council shall be maintained by a property owners' association, condominium association or a similar organization, or by the developer.
- d. Parking. Pursuant to a written request and justification statement from the applicant, the planning commission shall have the authority to reduce the required parking for multifamily units to 1½ parking spaces per unit and may modify parking for commercial and/or office use if the planning commission determines that additional parking is not warranted.

G. Review and approval of TOD overlay option.

1. Phase 1: Concept Plan. The developer will provide sufficient information for the Planning Commission to approve and recommend to the Mayor and Council to approve or disapprove the TOD overlay option on the property and the overall concept of the project and to establish the land use mix of the project.
  - a. The TOD overlay option may be approved if it satisfies the objectives and requirements set forth in subsections 21.11.A through 21.11.F of this section. The applicant has the burden of proof on all issues.
  - b. Application. The application submitted must include the appropriate number of copies of each of the following:
    - (1) a map of the applicant's entire holding at a convenient scale;
    - (2) a vicinity map at a scale of 1 inch equals 2,000 feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within 2,000 feet of the applicant's property.

- (3) a topographic map of the property, at a minimum of 2-foot contour intervals, unless otherwise specified, showing the existing surface of the land and the location of natural features, such as streams, rock outcroppings, and wooded areas.
- (4) a generalized overall land use plan at 1" = 100' scale, showing the type, location, acreage, and density of all proposed land uses as well as the general street layout and circulation pattern.
- (5) a concept plan at 1" = 30' scale, or as identified by the Planning and Zoning staff, showing the location of all proposed lot lines; the location, proposed use, size and height of all existing and proposed buildings; the location of all roads, parking lots, truck loading areas and access and egress drives; and the location and type of all public, recreational, or cultural facilities and areas.
- (6) a phasing schedule describing the timing and sequence of development and public facilities.
- (7) a justification statement addressing the following:
  - (a) realization of the purpose, goals and objectives of the TOD overlay option.
  - (b) integration and relationship of uses within the project and with existing uses in the neighborhood of the project. For purposes of this section "neighborhood" shall be defined as the area encompassing a ¼ mile radius around the train station.
  - (c) long-term implications on local development patterns, facilities, and services.
  - (d) the timing of the construction of the TOD overlay option project as it relates to the provision of necessary facilities and services.
  - (e) availability and suitability of pedestrian and vehicular access, with emphasis on pedestrian access between the residential component of the proposal and the train station.

- (f) water and sewer facilities and capacity availability, and any proposal to supply them.
  - (g) preservation and integration into the project of any existing historic structures on the development site.
  - (h) consistency with the goals, objectives and policies of the City of Brunswick Master Plan. Consistency with any particular land use designation as depicted on the master plan is not required. However the Mayor and Council must be provided sufficient justification to find that the proposed project, notwithstanding its particular land use designation, meets the goals, objectives, and policies of achieving transit oriented development around existing or proposed transit stops which emphasizes the use of public mass transportation and provides options for residents to travel by mass transit, bicycle, or foot, as well as automobile.
- c. In accordance with the submittal schedule for review items for Planning Commission as a 60 day review item, the Planning Commission shall review the Phase I proposal at a public hearing. The Planning Commission shall then make a recommendation to the Mayor and Council as to approval or disapproval of the TOD overlay option application.
- d. Upon receipt of the Planning Commission recommendation, the Mayor and Council shall hold a public hearing on the proposal. The Mayor and Council shall then determine the feasibility and desirability of the project concept under the TOD overlay option and shall approve or disapprove the TOD overlay option, and if approved, set maximum permitted land use mix percentages for each parcel or parcels within the project.
- e. If the Phase II execution phase, as provided in Subsection G.2 below, has not commenced within three (3) years of approval of concept plan, the Planning Commission shall review the Phase I Concept Plan to determine if the TOD overlay option is still an appropriate use for the property. The Planning Commission may then grant an extension of the approval or recommend that the TOD overlay option be reviewed by the Mayor and Council for possible removal of the TOD overlay option. The Mayor and Council shall have the authority to remove the TOD overlay option.

2. Phase II: Execution Phase. This guides the project through the customary subdivision and site plan process. Before applying for Phase II execution phase, the land encompassing the TOD overlay option project shall be classified at least W-4, S-4 on the Frederick County Water and Sewerage Plan.
  - A. If subdivision is proposed, preliminary and final platting in accordance with the City Subdivision Regulations is required. The submission of 5 copies of any covenants to be attached to the property and 5 copies of any homeowners'/property owners' association documents shall be submitted for approval.
  - B. Site plan review shall be in accordance with the Zoning Ordinance to include any covenants to be attached to the property and any homeowners'/property owners' association documents and approved by the Planning Commission.
  - C. Adequate public facilities ordinance (APFO) review will occur during the Phase II execution phase.
  - D. Written requests and justification for modification of the bulk requirements such as parking, etc., shall be presented to the Planning Commission for approval based on the merits of the application.
  - E. As part of the Phase II execution phase, the Planning Commission may approve changes to the location of land uses on the Phase I concept plan.

#### H. Appeals.

1. Any person aggrieved by a final decision by the Planning Commission (during Phase II) or the Mayor and Council pursuant to this section may appeal to the Circuit Court pursuant to Rule 7-201 of the Maryland Rules of Procedure. The decision of the Circuit Court may be appealed to the Court of Special Appeals, or, upon certiorari, to the Court of Appeals of Maryland in accordance with Maryland Rules of Procedure.
2. The Mayor and Council may file a responsive pleading and be a party to or take an appeal to the Circuit Court of the County, to the Court of Special Appeals of Maryland or, upon certiorari, to the Court of Appeals of Maryland of any decision made under this section.

(Ord. 455)